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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,893	06/21/2001	John Joseph Curro	8591	6717

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EXAMINER

BEFUMO, JENNA LEIGH

ART UNIT PAPER NUMBER

1771

6

DATE MAILED: 04/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

pplicant(s)

09/886,893

CURRO ET AL.

Examiner

Art Unit

Jenna-Leigh Befumo

1771

The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 9,10,16,21 and 22 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-15 and 17-20 is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 6 is/are rejected.
- 7) ☒ Claim(s) 3,5,7 and 8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

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DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention: using a liquid substance in the voids space (claims 3, 7, 8, 13, 14, 15, 19, and 20); using a powdered substance in the void space (claims 9, 10, 16, 21); and using an adhesive in the void space (claim 22).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, 1, 2, 4, 5, 6, 11, 12, 17, and 18 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the

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examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Angela Stone on March 27, 2003 a provisional election was made with traverse to prosecute the invention where a liquid substance fills the void space, claims 1 – 8, 11 – 15, and 17 – 20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 9, 10, 16, 21, and 22 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Drawings

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "2", "2A", "20", and "120" have both been used to designate the top outer layer in various Figures. There doesn't appear to be any difference between these layers which would require and different reference number. The drawing are also rejected for this reason with respect to the outer bottom layer which is "4". "4A", "40", and "140"; the bond sites "5" and "50"; the apertures "6" and "60"; the void region "8" and "80"; the film layer "9" and "9A"; and the laminate "1" and "10". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

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5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "104" has been used to designate both supply roll for the first web and the supply roll for the second web. It is noted that according to the specification, the supply roll for the second should be number 105 (specification page 25, line 19). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign not mentioned in the description: 180. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 2, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Srinivasan et al. (5,851,935).

Srinivasan et al. discloses a elastic laminate fabric comprising two nonwoven web outer layers and an elastomeric film inner layer (column 4, lines 51 – 59). The layers are thermally spot bonded together (column 4, lines 58 – 60). When the layers are bonded together the heat and pressure form an aperture in the film layer and fuse the fibers in the outer nonwovens layer

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together to form a thin compressed web (column 4, line 65 – column 5, line 3). Thus, the layers are only bonded at the bond sites creating a void between the outer layers in the remaining areas of the laminate which is filled by the elastomeric film layer.

While Srinivasan et al. fails to explicitly teach the laminate is bonded at the periphery, Srinivasan et al. does teach that the bond sites are located over the entire laminate which would include bond sites at the periphery of the laminate (Figure 3B). Additionally, the laminate is used in disposable articles (column 1, lines 15 – 17). Therefore, the laminate will be bonded to additional layers in the absorbent articles. it would have been obvious to one of ordinary skill in the art to bond the laminate to the absorbent structure by bonding the periphery edges of the elastic laminate taught by Srinivasan et al. so that the laminate will be well bonded to the absorbent article without limiting the amount that the elastic laminate is allowed to stretch. Thus, claims 1, 2, 4, and 6 are rejected.

9. Claims, 1, 2, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Middlesworth et al. (6,537,930).

Middlesworth et al. discloses a three layer film/nonwoven laminate including two outer layer nonwoven fabrics and an elastic film middle layer (column 2, lines 40 – 56). The outer layers are thermally bonded to form discrete bond points (column 3, lines 24 – 29). The composite can be stretched causing the bond points to tear or rupture (column 2, lines 11 – 15). Thus, the layers are only bonded at the bond sites creating a void between the outer layers in the remaining areas of the laminate which is filled by the elastomeric film layer.

While Middlesworth et al. fails to explicitly teach the laminate is bonded at the periphery, Middlesworth et al. does teach that the bond sites are located over the entire laminate which

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would include bond sites at the periphery of the laminate (Figure 2). Additionally, the laminate is used in disposable articles (column 1, lines 15 – 20). Therefore, the laminate will be bonded to additional layers in the absorbent articles. It would have been obvious to one of ordinary skill in the art to bond the laminate to the absorbent structure by bonding the periphery edges of the elastic laminate taught by Middlesworth et al. so that the laminate will be well bonded to the absorbent article without limiting the amount that the elastic laminate is allowed to stretch.

Thus, claims 1, 2, 4, and 6 are rejected.

Allowable Subject Matter

10. Claims 3, 5, 7, and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claim 11 – 15 and 17 – 20 are allowed.

12. The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to teach a three layer structure bonded together at bond sites which define weakened regions such that upon application of sufficient force the bond site would fracture to form an aperture. Further, the prior art fails to teach a multi-layer laminate comprising fluid or powder substance in the voids between the two layers having bond sites which have been weakened such that the sites will fracture upon stretching, forming apertures which allow the fluid or powdered substance to be delivered to outside of the laminate. While Haq et al. (EP 0 112 654) discloses a similar structure having three layers wherein the outer layers are bonded together at a periphery and at bond sites and a liquid or other substance stored between the outer layers, Haq et al. fails to teach or fairly suggest forming the bond sites so that they will fracture

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and form apertures to deliver the liquid within the laminate. Instead Haq et al. discloses that permeable outer layers are used so that the substance can readily pass between the outer layers. Further, it would not be obvious to weaken the bond sites since that would allow the bond sites to easily fracture when in use as a wipe and decrease the overall strength of the laminate.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (703) 605-1170. The examiner can normally be reached on Monday - Friday (9:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Jenna-Leigh Befumo
April 3, 2003


TERREL MORRIS
SUPERVISORY PATENT EXAMINER
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